

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JOSEPH ENGEL,

Plaintiff,

v.

CCA, et al.,

Defendants.

No. 4:20-CV-1619 SEP

MEMORANDUM AND ORDER

This matter is before the Court upon review of Plaintiff's pro se complaint. The complaint is defective because it has not been drafted on the Court's form. *See* E.D. Mo. L. R. 2.06(A). Additionally, Plaintiff must either pay the filing fee or file a motion to proceed in forma pauperis. *See* 28 U.S.C. § 1915(a).

Because Plaintiff is proceeding pro se, the Court will allow Plaintiff to file an amended complaint on the Court's form. Plaintiff has twenty-one (21) days from the date of this Order to file an amended complaint in accordance with the specific instructions set forth here. All claims must be included in one, centralized complaint form. *See* Fed. R. Civ. P. 7(a)(1), 8(a).

Plaintiff is warned that the filing of an amended complaint replaces the original complaint and all earlier pleadings, so Plaintiff must include every one of the claims he wishes to pursue in the amended complaint. *See, e.g., In re Wireless Telephone Federal Cost Recovery Fees Litigation*, 396 F.3d 922, 928 (8th Cir. 2005). All of Plaintiff's claims should be clearly set forth in the "Statement of Claim." Any claims that are not included in the amended complaint will be deemed abandoned and will not be considered. *Id.* The allegations in the complaint must show how each defendant is directly responsible for the alleged harms. If Plaintiff wishes to sue

defendants in their individual capacities, he must say so in the amended complaint. Failure to sue defendants in their individual capacities may result in dismissal.

If Plaintiff fails to file an amended complaint on the Court's form within twenty-one (21) days and in compliance with these instructions, the Court will dismiss this action without prejudice and without further notice.

Accordingly,

IT IS HEREBY ORDERED that the Clerk is directed to mail to Plaintiff a copy of the Court's prisoner civil rights complaint form.

IT IS FURTHER ORDERED that the Clerk is directed to mail to Plaintiff a copy of the motion to proceed in forma pauperis form for prisoners.

IT IS FURTHER ORDERED that Plaintiff must file an amended complaint on the Court's form within twenty-one (21) days of the date of this Order.

IT IS FURTHER ORDERED that Plaintiff must pay the \$400 filing fee **or** submit a motion to proceed in forma pauperis within twenty-one (21) days of the date of this Order.

IT IS FURTHER ORDERED that if Plaintiff files a motion to proceed in forma pauperis, he must also file a certified copy of his prison account statement for the six-month period preceding the filing of the complaint.

IT IS FINALLY ORDERED that if Plaintiff fails to comply with this Order, the Court will dismiss this action without prejudice. If the case is dismissed for non-compliance with this Order, the dismissal will **not** count as a "strike" under 28 U.S.C. § 1915(g).

Dated this 19th day of November, 2020.



SARAH E. PITLYK